

1  
2  
3  
4  
5  
6  
7  
8  
9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA-WESTERN DIVISION  
11  
12  
13  
14

15 BILLY EARL HARRISON, ) CV 14-2042-DMG (SH)  
16 )  
17 Plaintiff, ) ORDER ACCEPTING AMENDED REPORT  
18 v. ) AND RECOMMENDATION OF  
19 SGT. SHAW, et al., ) UNITED STATES MAGISTRATE JUDGE;  
20 Defendants. ) and ORDER

21 Pursuant to 28 U.S.C. Section 636(b)(1)(C), the court has reviewed the  
22 Complaint and other papers along with the attached Amended Report and  
23 Recommendation of the United States Magistrate Judge, and has made a *de novo*  
24 determination of the Amended Report and Recommendation.

25 IT IS HEREBY ORDERED that:

- 26 1. The Amended Report and Recommendation is approved and accepted.  
27  
28

1           2.     Plaintiff's Complaint against Defendant Shaw is dismissed with leave  
2                 to amend for failure to state a claim pursuant to 28 U.S.C.  
3                 § 1915(e)(2)(B).

4           3.     Plaintiff's official capacity damages claim and his due process prisoner  
5                 grievance claim are dismissed without leave to amend.

6           If plaintiff wishes to pursue this action in this court, he must file a First  
7 Amended Complaint within **thirty days** of the date this Order Accepting the  
8 Amended Report and Recommendation is filed. The Amended Complaint, bearing  
9 the number CV 14-2042-DMG (SH), must be a complete and independent document  
10 and must not refer to prior pleadings. Plaintiff is cautioned that failure to file a First  
11 Amended Complaint within the time specified by this Order may result in dismissal  
12 of the action with prejudice on the grounds stated in the Amended Report and  
13 Recommendation of the United States Magistrate Judge and/or for failure to  
14 prosecute.

15           In preparing a first amended complaint, plaintiff must bear in mind the  
16 deficiencies of the current pleading, and must assure that they are not repeated.  
17 Plaintiff must take particular note of the following guidelines:

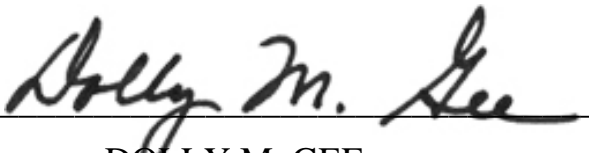
- 18           1.     Plaintiff must set forth the jurisdictional grounds for his claims at the  
19                 outset of the Complaint.
- 20           2.     The Complaint must include only factual allegations directly relevant  
21                 to plaintiff's claims, which must be stated in separate, numbered  
22                 paragraphs (preferably in chronological order), each limited to a single  
23                 set of circumstances. The facts should be stated in simple, complete  
24                 sentences. Repetition is to be avoided.
- 25           3.     The Complaint must clearly identify the specific acts on which each  
26                 claim is based. Insofar as possible, the allegations should include the  
27                 date, time, place and circumstances of the offending conduct by each  
28                 defendant, a clear statement of what each defendant did or failed to do,

1 and the damage of injury suffered by plaintiff as a result of each  
2 defendant's conduct.

- 3 4. If civil rights violations are claimed, the complaint must specifically  
4 set forth the federal constitutional right or rights infringed with respect  
5 to each alleged wrongful act or omission.
- 6 5. Plaintiff is not permitted to add defendants or claims without first  
7 seeking leave of court.  
8

9 IT IS FURTHER ORDERED that the Clerk shall serve forthwith a copy of  
10 this Order on the Plaintiff.  
11

12 DATED: August 28, 2014  
13

14   
15 \_\_\_\_\_  
16 DOLLY M. GEE  
17 UNITED STATES DISTRICT JUDGE  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28